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PARENTS INVOLVED IN COMMUNITY SCHOOLS, PETITIONER,
v.
SEATTLE SCHOOL DISTRICT NO. 1, ET AL.

CRYSTAL D. MEREDITH, CUSTODIAL PARENT AND NEXT FRIEND OF JOSHUA RYAN MCDONALD, PETITIONER,
v.
JEFFERSON COUNTY BOARD OF EDUCATION, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE NINTH AND SIXTH CIRCUITS

BRIEF FOR THE NATIONAL WOMEN'S LAW CENTER AND THE NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES ET AL. AS *AMICI CURIAE* SUPPORTING RESPONDENTS

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ADDITIONAL *AMICI CURIAE*

American Association of University Women
California Women's Law Center
Coalition of Labor Union Women
Connecticut Women's Education and Legal Fund
Feminist Majority Foundation
Legal Momentum
Myra Sadker Advocates for Gender Equity
National Asian Pacific American Women's Forum
National Association of Commissions for Women
National Association of Social Workers
National Association of Social Workers –
Washington Chapter
National Council of Jewish Women
National Council of Women's Organizations
Northwest Women's Law Center
Southwest Women's Law Center
Women's Law Center of Maryland
Women's Law Project
Women's Sports Foundation
YWCA of the USA

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INTERESTS OF *AMICI CURIAE*[1]

Amici curiae are twenty-one organizations that share a longstanding commitment to civil rights for all Americans, with a particular interest in eradicating discrimination against women.[2] That interest is aligned with the closely related goal of eliminating discrimination based on race. Indeed, racial stereotypes often include discriminatory views about women. To bring about a society where being female is no longer a barrier to academic achievement, career success, or any other aspect of a fulfilling life, it is necessary to eliminate all forms of gender discrimination, including those forms intertwined with racial discrimination.

INTRODUCTION

This brief highlights the important role racially integrated schools play in breaking down persistent and pernicious stereotypes. As this Court repeatedly has recognized, negative assumptions based on race or sex have had terrible consequences for many Americans, denying them valuable opportunities and perpetuating unfair treatment. Integrated public schools are one important method of ensuring that this unfortunate history is not perpetuated and upholding the Constitution's equal protection principles. This Court should preserve for public school districts the flexibility to provide their communities with racially integrated schools.

SUMMARY OF ARGUMENT

After this Court made clear in *Brown v. Board of Education* that public school districts could not segregate their stu-

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[1] The parties have filed blanket consent letters with the Clerk. No counsel for a party authored this brief in whole or part, and no person or entity other than *amici* and their counsel made a monetary contribution to its preparation or submission.

[2] Statements of interest for the individual organizations are attached in the Appendix.

dents by race, numerous school districts sought to limit the effects of *Brown* by segregating their students by sex. For example, Tennessee and Mississippi enacted statewide laws that explicitly permitted – and thereby encouraged – school boards to separate their students based on sex. Further, Alabama, Louisiana, Tennessee, and Texas all enacted "pupil placement" laws that expressly allowed for the use of sex in determining assignments to schools. In other states, school boards imposed sex segregation without legislative authorization. For example, several school boards reconfigured their public schools as single-sex institutions in response to court-ordered racial desegregation. Eventually, at the urging of the United States, federal courts put a stop to this transparent and unlawful strategy for evading *Brown*.

The gender-based effort to re-segregate the public schools post-*Brown* provides important historical context for understanding the benefits of racially integrated public schools. The school boards' selection of sex as a substitute for race was no accident. To the contrary, sex, like race, has long been a basis for stereotypical thinking. The school boards' use of sex to oppose racial integration was driven by particular, yet distinct, stereotypes of white women and women of color, stereotypes that robbed all women of their individuality. Indeed, this Court has repeatedly acknowledged the devastating power of stereotypes.

This history of sex segregation and related stereotypes provides a compelling reason to allow the plans developed by the Seattle and Jefferson County school boards. Racially integrated public schools provide an educational environment that challenges students and helps them to reject stereotypes and stereotypical thinking. Racial integration not only is essential for equality of opportunity and the elimination of stereotypes on the basis of race, but it benefits women by undermining powerful gender stereotypes, stereotypes that

distinctly and undeniably damage both white women and women of color.

ARGUMENT

THE STUDENT ASSIGNMENT PLANS AT ISSUE HELP TO BREAK DOWN STEREOTYPES THAT ARE BASED ON BOTH RACE AND SEX

The voluntary desegregation plans in Seattle and Jefferson County that are at issue in this case further several compelling governmental interests. Here, we focus on the role of the plans in creating integrated learning environments that foster interactions and understanding between students of many different backgrounds, leading to the breakdown of damaging race- and gender-based stereotypes.

Stereotypes "both deprive[] persons of their individual dignity and den[y] society the benefits of wide participation in political, economic, and cultural life." *Roberts v. United States Jaycees*, 468 U.S. 609, 625 (1984). In *Brown v. Board of Education*, the Court noted the damage caused to students by the racial stereotypes perpetuated by segregated schools. *See* 347 U.S. 483, 494 & nn.10-11 (1954). The Court has similarly recognized – in the context of gender – that "overbroad generalizations about the different talents, capacities, or preference of males and females" can be damaging. *United States v. Virginia*, 518 U.S. 515, 533 (1996). Just like race-based stereotypes, "prejudicial views of the relative abilities of men and women . . . wreaked injustice in so many [] spheres of our country's public life . . ." *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127, 140 (1994).

To understand how the compelling interest in overcoming stereotypes is furthered by the plans at issue in this case, we begin by setting these plans in their historical context. Many school districts responded to *Brown*'s desegregation mandate by segregating students on the basis of sex. That sex segregation was founded on deep-seated historical

stereotypes about white women and women of color, and modern forms of those stereotypes continue to have damaging effects on women and girls today. We then demonstrate how education in a racially integrated environment provides a powerful way to overcome stereotypes – even beyond race.

A. Many Recalcitrant School Districts Reacted To *Brown v. Board of Education* By Re-Segregating Schools Based On Sex

Race and gender are integrally intertwined in our Nation's history of segregation. For much of that history, the educational system simply excluded blacks. But "[a]fter the Civil War and the abolition of slavery, doors to educational opportunities slowly began to open for Blacks." Verna L. Williams, *Reform or Retrenchment? Single-Sex Education and the Construction of Race and Gender*, 2004 Wis. L. Rev. 15, 40. In the Civil Rights Act of 1866, for example, Congress established the Freedmen's Bureau to help newly freed slaves, and one of its main goals was to provide some of the first public schooling for blacks. *See* W.E.B. Dubois, *The Freedman's Bureau*, Atlantic Monthly, Mar. 1901, at 354, 361; *see also* 42 U.S.C. § 1981. However, black students were generally segregated from white students, either by force of law or by custom. Gunnar Myrdal, An American Dilemma 632 (1944); *see also Gong Lum v. Rice*, 275 U.S. 78, 85-87 (1927) (upholding Mississippi's segregated school system and its decision that Asian students would attend "colored" schools). And the education that was made available for blacks was limited: "buildings and equipment [were] inferior"; "many common academic subjects [were] not offered"; and often blacks received nothing more than "a low grade vocational training." Myrdal, *supra*, at 632-33.

After this Court's watershed decisions in *Brown v. Board of Education*, prohibiting racial segregation in public schools, 347 U.S. 483 (1954), and mandating that schools begin the integration process "with all deliberate speed," 349

U.S. 294, 301 (1955), there was significant resistance to integrating black students into public education. That resistance has been well-documented. *See, e.g.*, *Griffin v. County Sch. Bd.*, 377 U.S. 218, 221 (1964); *Cooper v. Aaron*, 358 U.S. 1, 7-13 (1958). Even after this Court made clear that "the obligation of every school district is to terminate dual school systems at once," *Alexander v. Holmes County Board of Education*, 396 U.S. 19, 20 (1969), school boards used a variety of ways to slow the pace of desegregation, including "'freedom-of-choice,' 'free transfer,' closing of public schools and subsidizing private schools, the 'brother-sister rule,' 'grade-a-year,' certain forms of geographic zoning, and requests for delay in the desegregation timetable," Note, *The Constitutionality of Sex Separation in School Desegregation Plans*, 37 U. Chi. L. Rev. 296, 297 (1970) (internal citations omitted).

One widespread form of resistance to *Brown's* integration mandate was imposition of segregation on the basis of sex. For example, in 1957, Tennessee enacted a law allowing "school boards of the counties, municipalities and special school districts of the State . . . to provide separate schools for persons of the male sex and persons of the female sex." Act of Mar. 5, 1957, ch. 98, § 1, 1957 Tenn. Acts 323 (codified at Tenn. Code Ann. § 49-2-108). Each school board was given "exclusive discretion" to make a "determination of the necessity for such separate schools." *Id.* Mississippi followed suit, passing a law in 1964 permitting school boards to separate students on the basis of sex in school assignments or class assignments when the board "in its discretion, determine[d] such separation w[ould] promote or preserve the public peace, order, or tranquility of the school district, or the health morals or education of the students." Act of July 15, 1964, ch. 25, § 1, 1964 Miss. Laws 57 (Extraordinary Sess.) (codified at Miss. Code Ann. § 37-11-3). These laws were designed to dull the edge of this Court's desegregation mandate by keeping black boys away from

white girls. "According to an old Southern saying, 'the key to the schoolroom door is the key to the bedroom door.'" Josephine Ross, *The Sexualization of Difference: A Comparison of Mixed-Race and Same-Gender Marriage*, 37 Harv. C.R.-C.L. L. Rev. 255, 268 (2002).

Other states used sex discrimination to resist *Brown* through so-called "pupil placement" laws. *See* Note, *The Federal Courts and Integration of Southern Schools: Troubled Status of the Pupil Placement Acts*, 62 Colum. L. Rev. 1448, 1478 (1962). Pupil placement laws generally allowed school districts or school boards to consider school assignments on an individualized basis, placing "the burden of altering the status quo" on individual black students, so that "mass integration [was] almost impossible." *Id.* "Of all the states in the deep South, only Georgia [] passed no assignment legislation." *Id.* at 1452 n.23. Of particular interest here, the pupil placement laws in Alabama, Louisiana, Tennessee, and Texas all expressly allowed consideration of sex as a basis for assignment of students to schools. *Id.* at 1478.

With these statewide laws authorizing, and thereby encouraging, school districts to use sex segregation to avoid racial integration as background, a significant number of school districts responded to court-ordered desegregation by separating boys and girls in their schools.[3] For example,

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[3] *See, e.g.*, *United States v. Coffeeville Consol. Sch. Dist.*, 513 F.2d 244, 247 (5th Cir. 1975) (Coffeeville School District, Mississippi); *United States v. Georgia*, 466 F.2d 197, 200 (5th Cir. 1972) (Taylor County, Georgia); *Charles v. Ascension Parish Sch. Bd.*, 421 F.2d 656, 657 (5th Cir. 1969) (Ascension Parish, Louisiana); *Williams v. Iberville Parish Sch. Bd.*, 421 F.2d 161, 162 (5th Cir. 1969) (Iberville Parish, Louisiana); *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1220 (5th Cir. 1969) (Concordia Parish, Louisiana), *rev'd*, 396 U.S. 290 (1970); *Moore v. Tangipahoa Parish Sch. Bd.*, 304 F. Supp. 244, 249 (E.D. La. 1969) (Tangipahoa Parish, Louisiana); *Smith v. St. Tammany Parish Sch. Bd.*, 302 F. Supp. 106, 108 (E.D. La. 1969) (St. Tammany Parish, Louisiana), *aff'd*, 448 F.2d 414 (5th Cir. 1971); *The Constitutionality of Sex Separation in School Desegregation Plans*, *supra*, at 297 n.14

Concordia Parish in Louisiana proposed separate schools for boys and girls when facing court-ordered desegregation. *See Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1220 (5th Cir. 1969) (invalidating plan because it failed to create a unitary system overall without addressing whether sex separation was permissible), *rev'd*, 396 U.S. 290 (1970). As the superintendent of schools explained, "the co-educational system" previously in effect was "educationally sound as long as the schools are racially segregated," but if forced to integrate, then sex segregation would become the "most educationally sound" option. Williams, *supra*, at 63 (quoting Brief for Appellants at 9, No. 28342, *Smith v. Concordia Parish School Board*, 419 F.2d 1211 (5th Cir. 1969)).

Similarly, Ascension Parish in Louisiana responded to orders to desegregate with single-sex schools; officials explained that "[i]t would be less than honest" not to admit that they "felt that certain problems which might arise in newly integrated schools would be lessened if the sexes were separated." Williams, *supra*, at 64 (quoting Brief for Appellant at 105, *Charles v. Ascension Parish Sch. Bd.*, No. 28573, 421 F.2d 656 (5th Cir. 1969)); *see also Charles*, 421 F.2d at 657 (mentioning but declining to rule on the permissibility of single-sex education).

Taylor County, Georgia, also used sex segregation as a tool to resist integration in its court-ordered desegregation plan. *See United States v. Georgia*, 466 F.2d 197, 200 (5th Cir. 1972). When called to justify its plan, the state school board simply replied: "[E]ven assuming . . . that the separation by sex was 'racially motivated,' the proper response is so what! This is what the federal courts require." Williams, *supra*, at 64 n.254 (quoting Brief for the State of Georgia et

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(adding Lincoln Parish, Morehouse Parish, and St. James Parish, Louisiana; Carroll County and Wilkinson County, Mississippi; Barnwell School District, South Carolina; Fayette County, Tennessee; and Richmond County, Virginia).

al. at 17, *United States v. Georgia*, No. 71-2563, 466 F.2d 197 (5th Cir. 1972)).[4]

Fortunately, federal courts eventually put a stop to using sex segregation to avoid full racial integration. For example, in Amite County, Mississippi, the school district's 1969 plan separated its students so that "all students in the system [we]re *assigned* to sexually segregated schools at every level, from entry through graduation." *United States v. Hinds County Sch. Bd.* (*Hinds II*), 560 F.2d 619, 624 n.7 (5th Cir. 1977); *see also United States v. Hinds County Sch. Bd.* (*Hinds I*), 423 F.2d 1264, 1267-68 (5th Cir. 1969) (ordering desegregation). The motivation behind the plan was clear: "'The idea is to keep the black boys from having any contact with the white girls – pure and simple.'" Merrill Sheils, *Segregation by Sex*, Newsweek, Sept. 19, 1977, at 97 (quoting the only black member of the school board). Indeed, the school board president essentially admitted that race-based purpose, stating that boys and girls could attend the same schools only so long as "we had one school for whites and another school for coloreds." *Id.* The concern about boys and girls of different races was acute; the school district "fear[ed] that whites [would] leave the public school system if sex-desegregation [wa]s implemented." *Hinds II*, 560 F.2d at 624.

Although the United States Court of Appeals for the Fifth Circuit initially approved Amite County's plan as an "interim emergency measure to stabilize the education process," the court expressed concern regarding "whether racial discrimination was the motivation for the plan." *Hinds II*, 560 F.2d at 621. Five years later, the plan was still in place, causing black parents to begin boycotting the schools. Sheils, *supra*, at 97. The United States then sued to disman-

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[4] The federal court of appeals disagreed. *See United States v. Georgia*, 466 F.2d at 200.

tle the plan under the Equal Education Opportunities Act of 1974. *Hinds II*, 560 F.2d at 621-22. The court of appeals ultimately rejected the plan. It found that Amite County's single-sex school system was "a dual rather than a unitary school system and results in a similar if not equivalent injury to school children as would occur if a racially segregated school system were imposed." *Id.* at 623.

Racial segregation, then, was not only about racial stereotypes and harms to persons of color. Sex segregation in response to *Brown* reflected deeply held gender-based stereotypes as well. Put simply, "racial segregation in public schools has always been about race and gender." Reginald Oh, *Interracial Marriage in the Shadows of Jim Crow: Racial Segregation as a System of Racial and Gender Subordination*, 39 U.C. Davis L. Rev. 1321, 1323 (2006).

B. Segregation Based On Sex Reflected And Perpetuated Stereotypes About White Women and Women of Color

The sex segregation response to *Brown* was premised on longstanding and deep-seated stereotypes about both white women and women of color. These stereotypes still exist today, albeit in more subtle forms.

Like blacks, women were at first "total[ly] exclu[ded] from educational opportunities." Isabelle Katz Pinzler, *Separate But Equal in the Context of Gender*, 49 N.Y.L. Sch. L. Rev. 785, 789 (2004). Through the first part of the nineteenth century, many jurisdictions "completely den[ied] women and girls access to various levels of public education." Jill Elaine Hasday, *The Principle and Practice of Women's "Full Citizenship": A Case Study of Sex-Segregated Public Education*, 101 Mich. L. Rev. 755, 779-80 (2002). The exclusion of women from education, like the exclusion of blacks, was based on arguments about "inferior intelligence, scarcity of geniuses, freedom in instinctual gratifications, and emotionalism." *The Constitutionality of*

Sex Separation in School Desegregation Plans, *supra*, at 312-13.

When education became available to women, stereotypes defined the different types of education women in general, and black women and white women specifically, received. Two stereotypes about black women were particularly prevalent: the beliefs that black women were unintelligent and that they lacked moral character. "[B]ecause many southerners thought that Black women were unintelligent, they argued that education should be limited to teaching Black women to serve white people. Northerners, on the other hand, believed Black women were educable but lacking in morality and virtues; therefore, their schooling should emphasize character development." Williams, *supra*, at 47. This "confluence of raced and gendered stereotypes about Black women" resulted in schools created just for them to address their particular "perceived intellectual and moral shortcomings." *Id.* Those schools generally focused on training black women "to become better homemakers" and "to give better domestic service." Opal V. Easter, Nannie Helen Burroughs 58 (1995).

Educational opportunities for white women in the mid-nineteenth century often focused on teaching them to be "ladies." Hasday, *supra*, at 785. They were "prepar[ed] . . . to enter their separate sphere in society," Williams, *supra*, at 53, "the domestic sphere," which "properly belong[ed] to the domain and functions of womanhood." *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872) (Bradley, J., concurring). White women's schools thus taught subjects like "designing, engraving, sewing, dressmaking, millinery, art, needlework, cooking, housekeeping, and other such industrial arts as may be suitable to their sex." *Williams v. McNair*, 316 F. Supp. 134, 136 (D.S.C. 1970) (quoting S.C. Code § 408, tit. 22 (1962)), *aff'd*, 401 U.S. 951 (1971); *see also* Hasday, *supra*, at 785. These educational patterns in fact hurt white women,

"serv[ing] to simultaneously honor white women and justify their confinement." *The Constitutionality of Sex Separation in School Desegregation Plans*, *supra*, at 300; *see also Frontiero v. Richardson*, 411 U.S. 677, 684 (1973) (plurality opinion) (noting "an attitude of 'romantic paternalism' which, in practical effect, put women, not on a pedestal, but in a cage").

This system revealed subtle stereotypes about the perceived differences between black women and white women. "[W]hite females learned that they were destined to become 'true women,' the keeper of the home hearth, and the holder of the future of the race." Williams, *supra*, at 66. In contrast, schools for black women "ensured that [they] could care for white families, rather than or at the expense of their own and provided them with training to compensate for their perceived moral failings." *Id.* Those schools "constructed Black women as 'true workers,'" *id.*, on the assumption that they "did not need or deserve to be treated like ladies," Hasday, *supra*, at 787.

Early educational institutions for black and white women differed in one other critical respect as well. Single-sex educational institutions for white women were often premised on the need to ensure female chastity and fertility, but "[t]here was no similar concern for Black women's fertility." Williams, *supra*, at 56. Further, "[h]istorically, there has been absolutely no institutional effort to regulate Black female chastity." Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. Chi. Legal F. 139, 157.

These stereotypes motivated the sex segregation that took place in response to *Brown*. The fact that many school boards turned to single-sex education to resist desegregation demonstrated that a "basic purpose behind all devices of segregation and discrimination on the basis of race is the desire

to keep black men from white women, and, to a lesser extent, white men from black women." *The Constitutionality of Sex Separation in School Desegregation Plans*, *supra*, at 300. That desire was based on discrete, and different, stereotypes about white women and black women – that white women must be protected from black men, and that white men needed to be kept away from "loose" black women. *See* Hasday, *supra*, at 788; Williams, *supra*, at 66.

These stereotypes about women have not disappeared. "[S]tereotype-based beliefs about the allocation of family duties remained firmly rooted," *Nevada Dep't of Human Res. v. Hibbs*, 538 U.S. 721, 730 (2003), and broad assumptions persist about the abilities and aptitude of women, *see United States v. Virginia*, 518 U.S. at 540-45. Even today, "[b]lack femininity . . . is marked by [stereotypes about] hypersexuality and fecundity." Williams, *supra*, at 68; *see also* Dorothy E. Roberts, *Racism and Patriarchy in the Meaning of Motherhood*, 1 Am. U. J. Gender & L. 1, 11-12 (1993) ("The myth of the sexually loose, impure Black woman . . . persists in modern American culture."). And other girls of color face similarly deep-seated stereotypes about their abilities and their sexuality. *See, e.g.*, Karin Wang, *Battered Asian American Women: Community Responses From the Battered Women's Movement and the Asian American Community*, 3 Asian L.J. 151, 175-76 (1996) (exploring the historical roots of stereotypes about Asian-American women, including stereotypes about femininity, passivity, and sexuality); Berta Esperanza Hernandez-Truyol, *Las Olvidadas – Gendered in Justice/Gendered Injustice: Latinas, Fronteras and the Law*, 1 J. Gender Race & Just. 353, 376 (1998) (detailing stereotypes about Latinas' "reproductive and domestic" roles, including the pervasive teaching "that they are inferior to men").

These modern versions of historical stereotypes can have highly damaging effects, including corrosive effects on fe-

male academic performance. *See, e.g.*, Patricia M. Gonzales et al., *The Effects of Stereotype Threat and Double-Minority Status on the Test Performance of Latino Women*, 28 Personality & Soc. Psychol. Bull. 659, 660, 666-69 (2002); Steven J. Spencer et al., *Stereotype Threat and Women's Math Performance*, 35 J. Experimental Soc. Psychol. 4, 6-8, 21-26 (1999); *see also, e.g.*, Wang, *supra*, at 176 ("The image of Asian women as ultra-feminine helps mask or, worse yet, condones sexual violence against Asian American women, including domestic violence."). The continued existence and effects of these stereotypes provides a compelling basis to act.

C. The Seattle And Jefferson County Programs Help Eliminate Stereotypes

Both Seattle and Jefferson County have a compelling interest in creating an educational environment for students that helps combat pernicious stereotypes, including those stereotypes that rob women of their intrinsic dignity and their ability to play a full role in society. Racially integrated schools serve that interest because they encourage students to reject all stereotypes and stereotypical thinking. School districts must be permitted the flexibility to achieve that goal, as well as the many other significant benefits of racially integrated education.

There can no longer be any question that integrated schools help dispel *racial* stereotypes, particularly in the primary and secondary school setting. This Court has recently noted that "racial stereotypes lose their force" in integrated environments "because nonminority students learn there is no 'minority viewpoint' but rather a variety of viewpoints among minority students." *Grutter v. Bollinger*, 539 U.S. 306, 319-20 (2003). This insight is confirmed by numerous studies testing the "contact hypothesis," a widely-accepted psychological theory that proposes that interaction between students of different races leads to interracial under-

standing and positive racial attitudes and helps dispel stereotypes. *See, e.g.*, Christopher G. Ellison & Daniel A. Powers, *The Contact Hypothesis and Racial Attitudes Among Black Americans*, 75 Soc. Sci. Q. 385 (1994); *see generally* Gordon W. Allport, The Nature of Prejudice 250-68 (1958).[5]

The effects of interracial contacts are especially dramatic in public elementary and high schools, institutions that, as this Court has long emphasized, serve to "awaken[] the child to cultural values, [] prepar[e] him [or her] for later professional training, and [] help[] him [or her] to adjust normally to his [or her] environment." *Plyler v. Doe*, 457 U.S. 202, 223 (1982). As one study concluded, "childhood interracial contact promotes real and lasting improvement in racial attitudes into adulthood, both through the disconfirmation of negative racial stereotypes and through a direct effect on prejudice itself." Peter B. Wood & Nancy Sonleiter, *The Effect of Childhood Interracial Contact on Adult Antiblack Prejudice*, 20 Int'l J. Intercultural Rel. 1, 14-15 (1996).

Moreover, racially integrated schools encourage students to reject *all* stereotypes. Students in racially integrated learning environments "have shown a greater openness to

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[5] Similarly, students and teachers consistently report that contact between classmates of different races and ethnicities helps students relate to one another across personal differences, challenging their stereotypes, broadening their perspectives, and stimulating critical thinking about race and personal differences. *See* Patricia Marin, *The Educational Possibility of Multi-Racial/Multi-Ethnic College Classrooms*, *in* American Association of University Professors, Does Diversity Make a Difference? 61, 67, 69 (2000). As a landmark study of students in six desegregated high schools concluded, "desegregation made the vast majority of the students who attended these schools less racially prejudiced and more comfortable around people of different backgrounds." Amy Stuart Wells et al., *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society*, at 5 (2004), http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf. Importantly, the study demonstrated that integrated learning environments tend to dispel stereotypes held by *both* students of color and white students. *Id.* at 16.

diverse perspectives and a willingness to challenge their own beliefs." Sylvia Hurtado, *Linking Diversity and Educational Purpose: How Diversity Affects the Classroom Environment and Student Development, in* Diversity Challenged: Evidence on the Impact of Affirmative Action 187, 189 (Gary Orfield ed., 2001) (study of college students). They "benefit . . . both with respect to exposure to new perspectives and in terms of willingness to examine their own personal perspectives." Geoffrey Maruyama & Jose F. Moreno, *University Faculty Views About the Value of Diversity on Campus and in the Classroom, in* American Association of University Professors, Does Diversity Make a Difference? 9, 15-16 (2000). Integrated schooling thus encourages students to reject stereotypes in general, and to view individuals as individuals, thinking in complex rather than simplistic ways about individual differences.

Psychologists have suggested that integrated education improves the ability to engage in complex thinking because "diversity inhibits 'automaticity,' which is the tendency to travel down the same thinking paths developed in the past. In diverse learning environments thinking is pushed to broader and deeper levels associated with critical thinking." Roslyn Arlin Mickelson, *The Academic Consequences of Desegregation and Segregation: Evidence from the Charlotte-Mecklenburg Schools*, 81 N.C. L. Rev. 1513, 1548 (2003) (citing the work of cognitive psychologist Patricia Gurin). And sometimes, simply "getting people to pay attention to each other is a key to reducing the use of stereotypes." Kay Deaux & Mary Kite, *Gender Stereotypes, in* Psychology of Women 107, 130 (Florence L. Denmark & Michele A. Paludi eds., 1993).

Of course, we also join those *amici* who convincingly demonstrate that racial integration has resulted in tangible improvements in educational outcomes, including improved standardized test scores, higher track placements, increased

graduation rates, and higher college attendance rates.[6] It is of great importance to girls of color that they be able to take advantage of the opportunities provided in integrated schools. *See, e.g.*, Hernandez-Truyol, *supra*, at 358 (noting that "Latinas/os are the least educated of all ethnic and racial groups in the United States," and that educational opportunities are fundamental to the advancement of Latinas); Lea Hubbard, *The Role of Gender in Academic Achievement*, 18 Int'l J. Qualitative Stud. in Educ. 605, 612 (2005) (noting "the ability of African American women to persist academically" and take advantage of opportunities offered in integrated schools); Diane Scott-Jones & Maxine L. Clark, *The School Experiences of Black Girls: The Interaction of Gender, Race, and Socioeconomic Status*, 67 Phi Delta Kappan 520, 522 (Mar. 1986) (noting the high "educational and occupational aspirations" of black females).

Further, the increased academic opportunities generally found in integrated schools are important for girls, particularly in math and science, where they "continue to lag behind boys . . . and tend not to major in these fields in post-secondary schooling." Elisha A. Chambers & James B. Schreiber, *Girls' Academic Achievement: Varying Associa-*

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[6] *See generally* Carl Bankston III & Stephen J. Caldas, *Majority African American Schools and Social Injustice: The Influence of De Facto Segregation on Academic Achievement*, Soc. Forces 535 (Dec. 1996) Louisiana public schools); Vivian Ikpa, *Gender, Race, Chapter I Participation: The Effects of Individual Characteristics Upon Academic Performance in the Elementary Grades*, 16 Educ. Research Q. 15 (1992) (Norfolk, Virginia, public schools); Mickelson, *supra*, at 1513; Maureen T. Hallinan, *Diversity Effects on Student Outcomes: Social Science Evidence*, 59 Ohio St. L.J. 733, 741 (1998); *see also* Derek Black, *The Case for the New Compelling Government Interest: Improving Educational Outcomes*, 80 N.C. L. Rev. 923, 946 (2002) ("A great deal of research supports the conclusion" that students in integrated schools benefit from "better teaching and learning, improved civic values, increased employment opportunities, and higher achievement and more educational opportunities." (internal citations omitted)).

tions of Extracurricular Activities, 16 Gender & Educ. 327, 328 (2004). Those opportunities for achievement in science and math at the secondary school level are important because "[h]igh achievement in mathematics and science is a prerequisite for lucrative careers that have traditionally been closed to women and minorities." Scott-Jones & Clark, *supra*, at 521.

Indeed, integrated education has an important effect on career options and achievement, which helps to reduce poverty, a problem that acutely impacts women of color. *See, e.g.*, Hernandez-Truyol, *supra*, at 359 ("Latinas, heads of households in 23% of families as compared with only 16% of non-Latina/o families, have the lowest median income of any group."); Roberts, *supra*, at 23 ("While the proportion of poor families maintained by women has risen in all racial and ethnic groups, the proportion of poor Black families headed by women is far larger."). "Concentrated poverty is powerfully related to both school opportunities and achievement levels." The Civil Rights Project, Harvard University, *The Impact of Racial and Ethnic Diversity on Educational Outcomes: Cambridge, MA School District*, at 20 (Jan. 2002), http://www.civilrightsproject.harvard.edu/research/diversity/cambridge_diversity.php. The opportunities available in more integrated schools, such as "a more rigorous curriculum," "more highly skilled and experienced teachers," and "tougher academic competition" can help students to break the cycle of poverty. Erica Frankenberg et al., *A Multiracial Society with Segregated Schools: Are We Losing the Dream?*, at 35, http://www.civilrightsproject.harvard.edu/research/reseg03/reseg03_full.php.

In sum, the sex-based reaction to *Brown* has reverberations into the present that reach far beyond the historical context. Stereotypes based on race and gender have a long and stubborn history in the United States. Integrated schooling provides an effective means of combating and preventing

these stereotypes, thus advancing the goal of equal educational opportunity. By ensuring that schools remain integrated through a modest use of race, programs like those at issue in Seattle and Jefferson County serve the compelling goal of eradicating the negative effects of longstanding and pernicious stereotypes.

CONCLUSION

For the reasons given above, this Court should affirm the decisions below.

Respectfully submitted.

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APPENDIX

APPENDIX

INDIVIDUAL STATEMENTS OF INTEREST OF *AMICI CURIAE*

For 125 years, the American Association of University Women ("AAUW"), an organization of over 100,000 members, has been a catalyst for the advancement of women and their transformations of American society. In more than 1,300 communities across the country, AAUW members work to promote education and equity for all women and girls, lifelong learning, and positive societal change. AAUW plays a major role in mobilizing advocates nationwide on AAUW's priority issues, and chief among them is gender equity in education. AAUW supports affirmative action programs that establish equal opportunity for women and minorities, and encourage diversity in educational institutions and workplaces.

The California Women's Law Center ("CWLC") is a private, nonprofit public interest law center specializing in the civil rights of women and girls. CWLC, established in 1989, works in the following priority areas: Sex Discrimination, Women's Health, Race and Gender, Women's Economic Security, Exploitation of Women, and Violence Against Women. Since its inception, CWLC has placed a strong emphasis on eradicating sex discrimination in education. CWLC has litigated cases and authored numerous *amicus* briefs, articles, and legal education materials on this issue. Therefore, this case raises questions within CWLC's expertise and concern and CWLC has the requisite interest and expertise to join in the *amicus* brief in this case.

The Coalition of Labor Union Women ("CLUW") is an AFL-CIO affiliate with over 20,000 members, a majority of whom are women. For more than 20 years, CLUW has advocated to strengthen the role and impact of women in every aspect of their lives. CLUW focuses on key public policy issues such as equality in educational and employment op-

portunities, affirmative action, pay equity, national health care, labor law reform, family and medical leave, reproductive freedom, and increased participation of women and people of color within their unions and within the larger political community. Through its 75 chapters across the United States, CLUW members work through a broad range of educational, political, and advocacy activities to end discriminatory laws, and policies and practices adversely affecting the rights of working women and people of color. CLUW has frequently participated as *amicus curiae* in numerous legal cases involving issues of racial and gender discrimination and pay equity.

The Connecticut Women's Education and Legal Fund ("CWEALF") is a nonprofit women's rights organization dedicated to empowering women, girls, and their families to achieve equal opportunities in their personal and professional lives. CWEALF defends the rights of individuals in the courts, educational institutions, workplaces, and in their private lives. For the past 30 years, CWEALF has provided legal information and conducted public policy and advocacy to ensure all students have equal access and success in educational programs.

Founded in 1987, the Feminist Majority Foundation ("the Foundation") is a nationwide, nonprofit, nongovernmental feminist research and action organization in the United States dedicated to advancing women's equality. As part of the Foundation's Education Equity Program, the Foundation promotes equality in education for both women and men, and for people of all races. The Foundation works for the advancement of both women and people of color, particularly given the detrimental historical and contemporary discrimination that these groups have experienced.

Legal Momentum advances the rights of women and girls by using the power of the law and creating innovative public policy. As the nation's oldest women's rights legal

organization, we are deeply committed to eradicating the legacy of both race and sex discrimination in public education. Legal Momentum has represented individuals and appeared as *amicus curiae* in numerous cases advancing Title IX enforcement and equal opportunity in education, including *Grutter v. Bollinger*, 539 U.S. 306 (2003), *Gratz v. Bollinger*, 539 U.S. 244 (2003), *Davis v. Monroe County Board of Education*, 526 U.S. 648 (1999), and *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992).

Myra Sadker Advocates ("MSA") is a nonprofit organization dedicated to promoting equity in and beyond schools. By working to eliminate gender bias, MSA enhances the academic, psychological, economic, and physical potential of America's children. MSA is committed to strengthening laws against discrimination and harassment, ensuring that today's girls learn in an educational environment free from bias.

The National Asian Pacific American Women's Forum ("NAPAWF") is the only national multi-issue organization dedicated to forging a progressive movement for social and economic justice and the political empowerment of Asian and Pacific American women and girls. Founded in 1996, NAPAWF has ten chapters around the country and unites our diverse communities through organizing, education, and advocacy. NAPAWF supports the respondents in Parents Involved in *Community Schools v. Seattle School District No. 1* and *Meredith v. Jefferson County Board of Education*. Equal educational access is one of the six platform areas that form the basis of NAPAWF's advocacy work. We believe that educational programs and opportunities must support and reflect the full diversity of Asian Pacific communities. NAPAWF is concerned that racially isolated school districts will continue to perpetuate race and gender stereotypes, and therefore supports policies that confront segregationist edu-

cational districting such as Seattle's and Jefferson County's voluntary integration plans.

The National Association of Commissions for Women ("NACW") works to keep the needs of women in the forefront of laws, policies, and practices and promotes the status of women and girls, including the educational environment. As the national advocate for over 200 governmental commissions for women, NACW holds a unique and positive position for women's equity and justice, touching millions of women by playing a significant role in national policy and legislative development. As such, NACW supports measures to eliminate gender and racial sex discrimination in education and is concerned with the historical and existing continuation of this issue. NACW supports measures that will result in equal opportunity for women and minorities, resulting in diversity in both workplaces and educational institutions.

The National Association of Social Workers ("NASW") is a professional membership organization comprised of 150,000 social workers with chapters in every state, the District of Columbia, New York City, Puerto Rico, the Virgin Islands, and an international chapter in Europe. The Washington Chapter of the Association represents 2400 social work professionals in the state of Washington. The National Association of Social Workers' purpose is to develop and disseminate high standards of practice while strengthening and unifying the social work profession as a whole. In furtherance of its purpose, NASW promulgates professional standards and criteria, conducts research, publishes studies of interest to the profession, provides continuing education and enforces the NASW Code of Ethics. The National Association of Social Workers recognizes that "racism is pervasive in American society and remains a silent code that systematically closes the door of opportunity to young and old

alike." NASW, Social Work Speaks 305 (2006). According to the NASW Code of Ethics, Standard 6.04,

> Social workers . . . should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice. . . . Social workers should promote conditions that encourage respect for cultural and social diversity within the United States and globally. . . . Social workers should act to prevent and eliminate domination of, exploitation of, and discrimination against any person, group, or class on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, or mental or physical disability.

To promote these ethical standards, NASW advocates "the creation of educational systems in which faculties, staff, students, administrators, and boards of education reflect the diversity of neighborhoods and the larger society." Social Work Speaks, *supra*, at 311.

The National Council of Jewish Women ("NCJW") is a volunteer organization, inspired by Jewish values, that works to improve the quality of life for women, children, and families and to ensure individual rights and freedoms for all through its network of 90,000 members and supporters nationwide. NCJW's Principles and Resolutions state our belief that "a democratic society and its people must value diversity and promote mutual understanding and respect for all." It is in this spirit that we join this brief.

The National Council of Women's Organizations ("NCWO") is nonpartisan, nonprofit umbrella organization of over 210 groups that collectively represent some ten million women across the United States. NCWO members collaborate through substantive policy work and grass roots activism to address issues of concern to women, including the ability of educational institutions to use race and gender-

conscious measures to overcome historical and current discrimination and achieve integrated and diverse schools.

The National Partnership for Women & Families ("the National Partnership") is a nonprofit, national advocacy organization founded in 1971 that promotes equal opportunity for women, quality health care, and policies that help women and men meet the dual demands of work and family. The National Partnership has devoted significant resources to combating sex, race, and other forms of invidious discrimination. To that end, the National Partnership has filed numerous briefs *amicus curiae* in this Court and in the federal courts of appeals.

The National Women's Law Center ("the Center") is a nonprofit legal advocacy organization that is dedicated to the advancement and protection of women's legal rights. Since 1972, the Center has worked to secure equal opportunity in education for girls and women through full enforcement of the Constitution and laws prohibiting discrimination. The Center has participated in numerous cases involving sex discrimination before this Court and the federal courts of appeals.

The Northwest Women's Law Center ("the Law Center") is a regional nonprofit public interest organization based in Seattle, Washington, that works to advance the legal rights of all women through litigation, legislation, and the provision of legal information and referral services. Since its founding in 1978, the Law Center has been involved in both litigation and legislation aimed at ending all forms of discrimination against women. As part of that effort, the Law Center has vigorously defended laws, including Washington's Equal Rights Amendment, that have brought our society closer to full recognition of women's equality and autonomy. Toward that end, the Law Center has participated as counsel and as *amicus curiae* in cases throughout the Northwest and the country. The Law Center believes it is imperative that courts

preserve the ability of public schools to make efforts toward eradicating segregation and its harmful consequences.

The Southwest Women's Law Center ("the SWWLC") is a nonprofit public interest organization based in Albuquerque, New Mexico, that uses research, education, litigation, and advocacy to advance women's rights. Its mission is to create the opportunities for women to realize their full personal and economic potential. The SWWLC seeks to eliminate gender discrimination in education and supports equal educational opportunities as an essential means for ensuring the success of girls and young women in our society.

The Women's Law Center of Maryland, Inc. ("the Women's Law Center") is a nonprofit, membership organization with a mission of improving and protecting the legal rights of women, particularly regarding gender discrimination, workplace issues, family law and reproductive rights. Established in 1971, the Women's Law Center achieves its mission through direct legal services, hotlines, research, policy analysis, legislative initiatives, education, and implementation of innovative legal services programs to facilitate systemic change. The Women's Law Center commitment to equality encompasses support for measures that promote equal educational opportunities for all students.

The Women's Law Project ("WLP") is a nonprofit public interest law firm with offices in Philadelphia and Pittsburgh, Pennsylvania. Founded in 1974, the WLP works to abolish discrimination and injustice and to advance the legal and economic status of women and their families through litigation, public policy development, public education, and individual counseling. The WLP has worked throughout its history to eliminate sex discrimination in education under all applicable laws, including the United States and Pennsylvania Constitutions and Title IX of the Education Amendments of 1972.

The Women's Sports Foundation ("the Foundation") is a 501(c)3 nonprofit educational organization dedicated to advancing the lives of girls and women through sports and physical activity and ensuring equal participation and leadership opportunities for girls and women in sports and fitness. The Foundation distributes over 2 million pieces of educational information each year, awards grants and scholarships to female athletes and girls' sports programs, answers over 100,000 inquiries a year concerning Title IX and women's sports issues, and administers awards programs to increase public awareness about the achievements of women in sports. This case has important implications for gender equity and racial diversity in sports. The African-American female is discriminated against because of both her gender and her race. African-American females represent less than 5% of all high school athletes, less than 10% of all college athletes, less than 2% of all coaches, and less than 1% of all college athletics administrators. It is essential to prevent both types of discrimination, and even more important to consciously promote racial integration in sport.

The YWCA USA supports the ongoing use of affirmative action tools as an important part of its efforts to eliminate racism and empower women. YWCAs have worked toward diversity since their founding, bringing together women of all ages, racial, cultural, economic, social, and religious backgrounds. Despite recent progress, women and people of color still do not have access to the resources and opportunities needed to participate in society with full dignity and equality. Women and people of color still face fewer job and educational opportunities, lower wages, and economic uncertainty. Affirmative action is a still crucial tool in the continuing struggle toward equality.